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IN THE

Supreme Court of the United States

OCTOBER TERM, 1956

No. [redacted]232

BROWN & ROOT, Inc., and
T. L. JAMES & CO., Inc.,
d/b/a Louisiana Bridge Co.,
Petitioners,

versus

WESLEY E. ARCHER, ET AL.,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1956

No. 1132

BROWN & ROOT, Inc., and
T. L. JAMES & CO., Inc.,
d/b/a Louisiana Bridge Co.,
Petitioners,

versus

WESLEY E. ARCHER, ET AL.,
Respondents.

On Petition For A Writ of Certiorari To The United States Court of Appeals for the Fifth Circuit

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BRIEF FOR THE RESPONDENT IN OPPOSITION

OPINION BELOW

The opinion of the Court of Appeals, Fifth Circuit, is reported at 241 F. 2d 663.

JURISDICTION

The judgment of the Court of Appeals was entered on February 21, 1957. A Motion for Rehearing was timely filed

on March 14, 1957 and denied by minute order on April 3, 1957. The jurisdiction of this Court is invoked under 28 U.S.C. 1254 (1).

QUESTION PRESENTED

Whether employees engaged in construction of the new Lake Pontchartrain bridge and causeway project in New Orleans (including the construction of an adjacent plant for the fabrication of the necessary materials and parts of the bridge) — a project designed as an important improvement of and link in the existing interstate highway network — are engaged "in commerce or the production of goods for commerce" within the meaning of the Fair Labor Standards Act.

STATUTE INVOLVED

The statute involved is the Fair Labor Standards Act of 1938, as amended, 52 Stat. 1060, 63 Stat. 910, 29 U.S.C. 201, et seq.

STATEMENT

Respondent respectfully refers the Court to the facts as stated in the opinion of the Court of Appeals, which is an adequate and more accurate statement than that of petitioners.

REASONS FOR NOT GRANTING WRIT

The decision below is plainly a correct application of this Court's decisions in *Mitchell* v. *Vollmer & Co.*, 349 U.S. 427,

and in *Alstate Construction Co. v. Durkin*, 345 U.S. 13. The claimed conflict with earlier decisions of other Courts of Appeals, on which petitioners rely, pre-dated this Court's Vollmer decision which, we submit, effectively resolved such conflict.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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CERTIFICATE

I hereby certify that I have this ____ day of ____, 1957, served copies of the foregoing brief on counsel for petitioners.

_____

Horace R. Alexius, Jr.